

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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JAY D. and NADINE J. GREENE,	)	
	)	DOCKET NO.: PT-1999-5
Appellants,	)	
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE	)	FACTUAL BACKGROUND,
OF THE STATE OF MONTANA,	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
Respondent.	)	<u>FOR JUDICIAL REVIEW</u>

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The above-entitled appeal was heard on March 15, 2000, in the City of Hamilton, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law. The taxpayers, Jay and Nadine Greene, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Debbie Reisman and Suzanne Knapp, appraisers, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

**FACTUAL BACKGROUND**

1. Due, proper and sufficient notice was given of this matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and

documentary.

2. The taxpayers are the owners of the property which is the subject of this appeal and which is described as follows:

Land only, consisting of 1.41 acres, described as Lot 2, Silverbow Meadows, Section 16, Township 7 North, Range 20 West, with a street address of 125 Silver Bow Meadows, City of Victor, County of Ravalli, State of Montana. (Assessor number 877100).

3. For the 1999 tax year, the DOR appraised the subject land at a value of \$21,845.

4. The taxpayer appealed to the Ravalli County Tax Appeal Board on October 20, 1999 requesting a reduction in value to \$15,000 for the land and citing the following reasons for appeal:

*I will try to show that Ravalli County's appraisers are still--just as they were in 1996--trying to appraise, for tax purposes, as though "one size should fit all."*

*In the middle 1970s Richard Neville sold his log home business in the Darby area. By terms of that sale he was prohibited from competing in the Montana market for ten years--until 1985.*

*In Dec. 1978, Ernie and Myrna Buchholz subdivided their Silverbow Meadows property into 64 lots and one public park.*

*On April 5, 1984 Sam and Judy Bruce bought Lot 1 of their Silverbow Meadows development south of Victor, Mt. The price paid was \$11,000.00 for 1.62 acres of Bitterroot rock and knapweed. The price might also be stated as \$6790.00 per acre. Sam and Judy built there a big old house with three sets of stairways; which I bought from him in July 1985.*

***At that time there was nothing across Silverbow Drive from us except a little tiny trailer house.***

And there were no other houses on the south side of Silverbow Drive either--just us. In the fall of 1985 Neville Log Homes--its contractual prohibition, apparently lifted--began construction of their sawmill. **Directly across the street from my home.** In February 1999, due to my wifes (sic) arthritis making those stairs a severe impediment for her, I sold the home on lot 1 and built another, smaller, home -with no stairways--on Lot 2 (which I had purchased as a "cushion" on June 18, 1986.)

It is my contention that having a sawmill operation directly across the street has a depressing effect on property values. I will attempt to prove that by the same device I used on November 7, 1986 (Please refer to Docket No. PT-1986-1568 dated May 26, 1987) - by showing how property sales decreased in value subsequent to the opening of the sawmill. Please refer to my attachment A.

You will note that every sale subsequent to the opening of Neville Log Homes was significantly lower than the two sales which were consummated prior to opening the sawmill.

I do no (sic) intend to sell my home on lot 2. I hope to remain here until I die; but, when that happens, I do not want my heirs to find the sale price negatively effected (sic) after all of the years in which I had been taxed as though my home were located on prime real estate property.

And I do not object to the taxes I pay in Ravalli County. I just want to be certain the bases(sic) for assessing my taxes are a fair market value for 12/31/96.

Ravalli County has appraised the bare lot value of my place on lot 2 as \$21,845. On appeal I asked that it be adjusted to \$15,000.

In 1987 Ravalli County appraised Lot 2 at \$6,030, whereas I had asked for a state ordered adjustment to \$4,442.

Believing what was fair in 1987 ought as well be fair in 1997, I will ask that the state order Ravalli County to adjust by precisely the same ratio as was used in 1987.

**I believe that figure would be \$16,092.**

I hope you will not forget that old real estate adage "Three things matter in real estate. They are location, location and location." My land is located across a washboard gravel road from a very busy and prosperous sawmill. (The southern 1/3 of the property is swampland.)

Sales of bare-lot property on the south side of Silverbow Drive, Silverbow Meadows Subdivision in Ravalli County, Montana during the early-to-mid-1980's:

Lot Number	Date	Lot Size in Acres	Sale Price	Cost Per Acre
1	5/5/84	1.62	\$11,000	\$6,790*
2	6/16/86	1.41	5,000	3,546
3	12/31/85	1.3	5,000	3,846
4	12/31/85	1.24	5,000	4,032
5	6/13/86	1.1	5,000	4,545
6	NOTE	1.52	0	0
64	3/3/81	3.37	\$17,500	6,193*

(\*prior to Neville)

Note that Lot 6 has never sold, nor has it been improved.

Note also that these seven properties are the properties located across Silverbow Drive from the Neville Log Homes factory.

5. In its November 17, 1999 decision, the Ravalli County Tax Appeal Board denied the appeal, stating: "Disapproved. The comparative market values presented by the Department of Revenue justify the appraisal."

6. The taxpayers then appealed that decision to this Board on November 19, 1999, citing the same reasons for appeal as referenced in Finding Number Four above.

### TAXPAYERS' CONTENTIONS

At the hearing before this Board, the taxpayers relied upon a May 26, 1987 ruling by the State Tax Appeal Board, Docket Number PT-1986-1568, Jay D. Greene v. Department of Revenue, in which this Board found:

The Board finds that the taxpayer's evidence was persuasive that the value of his property was impaired by the location next to a sawmill, and therefore grants the appeal.

The above decision addressed a parcel adjacent to the subject land. The parcel addressed in the 1986 appeal (Lot 1) concerned a property which is no longer owned by the taxpayers. The taxpayers sold Lot 1 in February 1999 for \$125,000 for both land and improvements. The DOR's appraised value was \$117,400.

The taxpayers' primary reason for appeal is the devaluing effect of the Neville Log Home Manufacturing facility (Neville) located directly across Silverbow Drive from the subject land. Mr. Greene stated the Neville has grown "five or six times larger" than it was at the time of the 1986 appeal. The objection he has to the presence of the sawmill is the sawdust and the noise and smell of the diesel-burning tractors used in the operation.

The taxpayers' requested value of \$15,000 was derived from a mathematical manipulation of the 1999 DOR value of \$21,845 and the prior cycle value of \$6,345. "What I did, I divided the \$6,345 by the \$21,845 and came up with a factor. Then I multiplied that factor times my old, actual valuation, the one I talked you guys

into giving me before. And that's how I came up with the figure that I wanted now." (Jay Greene testimony, State Tax Appeal Board hearing, March 15, 2000).

Mr. Greene testified that he purchased the subject Lot 2 for \$5,000 in 1991 with the intent of securing a buffer between Lot 1 and any possible neighbors. He stated he had no intention of building upon Lot 2 at the time of purchase. However, upon the sale of his previous home on Lot 1 in February of 1999, he proceeded to build a home on Lot 2.

In response to questioning by the DOR, Mr. Greene stated that a recent fee appraisal, performed pursuant to a mortgage application, found a value of approximately \$20,000 for the subject land. The date of this appraisal was "either late February or early March of 1999", according to Mr. Greene.

Mr. Greene testified that he has no intention of selling the property. He merely wishes to keep a rein on the property taxes.

#### **DOR'S CONTENTIONS**

Ms. Reisman testified on behalf of the DOR. She stated that the appraisal date for the current appraisal cycle is January 1, 1996. Sales occurring between 1993 and 1995 were used in valuing property for this cycle.

DOR Exhibit B is a copy of the computer-assisted land pricing (CALP) tables used in producing an appraised value for the subject

land as well as all properties located within the subject neighborhood. 115 land vacant sales were analyzed to arrive at a base parcel size of one acre and a base rate of \$20,000 per acre.

An adjusted rate, for parcels smaller or larger than the base size, of \$4,500 was determined. The subject neighborhood, Neighborhood 8-6, encompasses an area of approximately 18 miles.

Within this neighborhood, Ms. Reisman stated there are "at least nine or ten" log home operations. Therefore, those 115 sales reflect the existence of those operations and their impact on the market value of neighboring property. DOR Exhibit H is a map showing the location of several log home operations which are located in Ravalli County. Ms. Reisman testified that ten of those operations are located within the subject neighborhood.

DOR Exhibit C is a map of the area surrounding the subject property and the location of comparable vacant land sales used by the DOR in determining the value of the subject land. (No vacant land sales have occurred directly across Silverbow Drive from Neville, as is the subject. However, Lot 5, which is across Silverbow Drive from Neville, is currently for sale at \$45,000.)

Therefore, the DOR attempted to review the impact of other log home operations on neighboring market values through an analysis of improved sales. (DOR Exhibit I). Ms. Reiman stated that market evidence does not demonstrate a negative impact on the market value of properties near log home operations. The sales prices of five

of the six improved sales analyzed were above the DOR appraised value. Ms. Reiman stated that the DOR offered this evidence in response to Mr. Greene's concern that he would not be able to sell the subject property at a price near the DOR's appraised value. The DOR concluded that no adjustment is warranted due to the proximity of Neville.

In an attempt to provide further justification for its value (DOR Exhibit F), the DOR analyzed the above sales, which occurred in 1994, 1995 and 1998. These sales were trended to reflect a January 1, 1996 valuation date. A percentage time adjustment was obtained through the comparison of paired sales (sales of the same property at different periods of time) and similar sales. The DOR arrived at an average percentage increase, per month, of .347 percent. This percentage increase adjustment was applied to the comparable sales. The adjusted sale price was divided by the acreages associated with the sales to arrive at an adjusted sale price per acre. The adjusted sales prices per acre ranged from \$10,969 to \$21,093. The average price per acre was \$15,994. The valuation of the subject property, based on the time adjustment analysis, was \$22,551. The DOR finds this supportive of its appraised value of \$21,845.

#### **BOARD DISCUSSION**

The Board finds that the taxpayers' requested value of \$15,000 is not supported by any market evidence. Further, the February



1999 sale price of their former home on Lot 1 for \$125,000 did not appear to have been depressed due to the presence of Neville.

The "February or March 1999" fee appraisal of the subject land, performed for financing purposes, found a land value of \$20,000, which is supportive of the DOR value of \$21,845.

The Board finds that the DOR has met its duty to arrive at a reasonable fair market value using sales of comparable property in a reasonably homogenous (though large) neighborhood. The Board can find no evidence in the record to suggest that the market value of the subject land has been negatively influenced by the presence of Neville.

The Board has been persuaded that the use of sales of properties in a neighborhood influenced by the presence of at least ten log home manufacturing operations has sufficiently recognized any influence those operations might have on market value.

#### **CONCLUSIONS OF LAW**

1. The State Tax appeal Board has jurisdiction over this matter.  
**§15-2-301, MCA.**
2. **§15-8-111, MCA.** Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of

Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967)).

4. The appeal of the taxpayers is hereby denied and the decision of the Ravalli County Tax Appeal Board is hereby affirmed.

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**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject land shall be entered on the tax rolls of Ravalli County by the Assessor of said County at the 1999 tax year value of \$21,845, as determined by the Department of Revenue and affirmed by the Ravalli County Tax Appeal Board.

Dated this 20th of April, 2000.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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GREGORY A. THORNQUIST, Chairman

( S E A L )

\_\_\_\_\_  
JAN BROWN, Member

\_\_\_\_\_  
JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 20th day of April, 2000, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Jay and Nadine Greene  
131 Silverbow Drive  
Victor, Montana 59875-96731

Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Ravalli County Appraisal Office  
Ravalli County Courthouse  
Hamilton, Montana 59840

JoAnn Woodgerd  
Chairperson  
Ravalli County Tax Appeal Board  
111 Log Cabin Lane  
Stevensville, Montana 59870

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DONNA EUBANK  
Paralegal